

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
(Baltimore)

THE ARBITRON COMPANY

*

Plaintiff/Judgment Creditor

*

Case No.: 02-MC-312

v.

*

ON TOP COMMUNICATIONS, INC.

*

4601 Presidents Drive, Suite 134

Lanham, Maryland 20706

*

Defendant/Judgment Debtor

*

* * * * *

**MOTION OF JUDGMENT CREDITOR
TO RELEASE OF WRIT OF EXECUTION
(GARNISHMENT OF PROPERTY OTHER THAN WAGES)**

The Arbitron Company (“Arbitron”), the judgment creditor, hereby moves for an order releasing the writ of garnishment served upon Bank of America, N.A. (“Bank of America”), stating as follows:

1. On July 18, 2005, Arbitron served a Writ of Execution (Garnishment of Property Other than Wages) (the “Writ”) upon Bank of America as to property of “On Top Communications, *Inc.*” (Emphasis supplied).

2. On August 4, 2005, Bank of America filed a Garnishee’s Answer confessing that it holds assets “consisting of a checking account no. 001921066342 in the name of On Top Communications, *LLC* with a balance of \$5,304.86 and a checking account no. 003937399056 in the name of On Top Communications, *LLC* with a balance of [\$]8,230.18, pending further orders of the Court.” (Emphasis supplied).

3. On or about July 29, 2005, On Top Communications, *LLC* filed for Chapter 11 bankruptcy protection in the United States Bankruptcy Court for the District of Maryland and

subsequently filed a Suggestion of Bankruptcy in this action, apparently because the LLC and the Corporation are one and the same.

4. Bankruptcy counsel for On Top Communications, LLC has now provided counsel for Arbitron with certain documents that appear to establish that the two accounts confessed by Bank of America are accounts owned by On Top Communications, LLC, the Debtor-in-Bankruptcy.

5. Upon information and belief, On Top Communications, LLC and On Top Communications, Inc. are one and the same. Arbitron believes, and therefore avers, that it possesses a valid judgment enforceable against the entity under either name. Accordingly, it expressly reserves any and all rights to pursue any legal recourse as against On Top Communications, LLC, WRXZ-FM and/or On Top Communications, Inc., including without limitation its rights to present and prosecute claims against On Top Communications, LLC in the bankruptcy case.

6. Nonetheless, on the basis that the accounts confessed by Bank of America appear to be assets of the Debtor-in-Bankruptcy, to avoid the possibility of violating the automatic stay in bankruptcy, Arbitron asks the Court to enter an order releasing the Writ as to the assets confessed by Bank of America; specifically, Bank of America checking account no. 001921066342 and Bank of America checking account no. 003937399056.

WHEREFORE, The Arbitron Company moves for an order releasing the Writ as to the assets confessed by Bank of America; specifically, Bank of America checking account no. 001921066342 and Bank of America checking account no. 003937399056.

August 10, 2005

/S/
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Attorneys for Judgment Creditor
The Arbitron Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of August, 2005, a copy of the foregoing motion, with proposed order, was served via fax and first class mail upon:

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Garnishee

and on:

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Bankruptcy Counsel for
On Top Communications, LLC

/S/
Severn E.S. Miller